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EXAMINER

ESCALANTE, OVIDIO

ART UNIT	PAPER NUMBER
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2645

DATE MAILED: 12/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/028,275

Applicant(s)

SHERWOOD, AMY L.

Examiner

Ovidio Escalante

Art Unit

2645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-58 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-58 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This action is in response to applicant's amendment filed on September 6, 2005. **Claims 1-58** are now pending in the present application.

#### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 6, 2005 has been entered.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-11,14-22,24-33,35-44,46-56 and 58 are rejected under 35 U.S.C. 102(e) as being anticipated by Loucks US Patent 6,760,412.

***Regarding claim 1***, Loucks teaches a method of arranging for an electronically-recorded message to be delivered to a communication medium of a recipient at a selected time, (abstract), said method comprising the steps of:

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recording the message on a stand-alone communication device in direct connection to a telephone line as customer premises equipment, (fig. 2; col. 4, lines 49-61; col. 5, lines 42-60; col. 8, lines 6-20);

inputting an access code for accessing the communication medium of the recipient, (col. 11, lines 38-67; fig. 7) and

indicating a delivery time for delivery of the message from the stand-alone communication device to the communication medium of the recipient, (figs. 3A, 3B, col. 7, lines 51-64).

***Regarding claims 2,15,26,37 and 49*** Loucks, as applied to claims 1,14,25,36 and 48 teaches inputting a plurality of access codes for accessing a plurality of communication media, (fig. 7).

***Regarding claims 3,16,27,38 and 50***, Loucks, as applied to claims 2,15,26,37 and 49 teaches indicating a plurality of delivery times, each delivery time corresponding to delivery of the recorded message to each of a plurality of communication media, (figs. 3A, 3B; col. 7, lines 51-64).

***Regarding claims 4,17,28,39 and 51***, Loucks, as applied to claims 3,16,27 and 50, teaches indicating whether the message should only be delivered if the recipient/oneself directly receives the message, (fig. 4; col. 9, lines 43-54).

***Regarding claims 5,18,29,40 and 52***, Loucks, as applied to claims 4,17,28,39 and 51, teaches indicating a re-send delay period used to re-send the message to a recipient/oneself after a re-send delay period if the recipient does not directly receive the message, (col. 9, lines 43-54).

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**Regarding claim 6**, Loucks, as applied to claim 5, teaches indicating a maximum re-send message number used to re-send the message to a recipient a maximum number of times when the recipient does not directly receive the message, (col. 9, lines 51-54; fig. 7).

**Regarding claims 7**, Loucks, as applied to claim 6, teaches indicating a re-send message number used to re-send the message to a recipient a number of times, (fig. 7; col. 11, lines 38-67).

**Regarding claims 8,19,30,41 and 53**, Loucks, as applied to claims 1,13,24,35 and 47 teaches wherein the communication medium is a telephone, (fig. 7; col. 11, lines 38-67).

**Regarding claims 9,20,31,42 and 54**, Loucks, as applied to claims 8,19,30,41 and 53, teaches wherein the access code is a telephone number for the telephone, (fig. 7; col. 11, lines 38-67).

**Regarding claims 10,21,32,43 and 55**, Loucks, as applied to claims 1,13,24,35 and 47 teaches wherein the communication medium is a voicemail mailbox, (fig. 7; col. 11, lines 38-67).

**Regarding claims 11,22,33,44 and 56**, Loucks, as applied to claims 10,21,32,43 and 45 teaches wherein the access code is a voicemail mailbox number, (fig. 7; col. 11, lines 38-67).

**Regarding claims 13 and 35**, Loucks teaches a method and system for sending an electronically-recorded message to a communication medium of a recipient at a selected timed, (abstract), said method comprises the steps and means for:

recording the message on a stand-alone communication device in direct connection to a telephone line as customer premises equipment, (fig. 2; col. 4, lines 49-61; col. 5, lines 42-60; col. 8, lines 6-20);

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inputting an access code for accessing the communication medium of the recipient, (col. 11, lines 38-67; fig. 7);

indicating a delivery time for delivery of the message to a communication medium of the recipient, (col. 7, lines 51-69; figs. 3A, 3B); and

sending the message from the stand-alone communication device to the communication medium of the recipient when the time reaches the delivery time, (col. 7, lines 51-69).

***Regarding claims 14,36 and 48***, Loucks, as applied to claims 14,35 and 47, teaches wherein the communication medium comprises a plurality of communication media, each communication medium having its own unique access code, (fig. 7).

***Regarding claim 24***, Loucks teaches a method of sending an electronically-recorded message to oneself at a selected time, (abstract), said method comprising the steps of:

recording the message on a stand-alone communication device in direct connection to a telephone line as customer premises equipment, (fig. 2; col. 4, lines 49-61; col. 5, lines 42-60; col. 11, lines 38-67);

inputting an access code for accessing a communication medium of oneself, (fig. 7; col. 11, lines 38-67);

indicating a delivery time for delivery of the message to the communication medium of oneself, (col. 7, lines 51-64; figs. 3A, 3B); and

sending the message from the stand-alone communication device to the communication medium of oneself when the time reaches the delivery time, (col. 7, lines 51-69).

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**Regarding claim 25**, Loucks, as applied to claim 24, teaches wherein the message comprises a plurality of messages, and the communication medium comprises a plurality of communication media, each communication medium having its own unique access code, (fig. 7).

**Regarding claims 46 and 58**, Loucks, as applied to claims 35 and 47, teaches wherein the recipient comprises oneself thereby arranging for an electronically-recorded message to a communication medium of oneself, (abstract; fig. 7).

**Regarding claim 47**, Loucks teaches a system for sending an electronically-recorded message to a communication medium of a recipient at a selected time, (abstract), said system comprising:

means for recording a message on a stand-alone communication device in direct connection to a telephone line as customer premises equipment, (fig. 2; col. 4, lines 49-61; col. 5, lines 42-60; col. 8, lines 6-20);

means for inputting an access code for accessing a communication medium of a recipient, (col. 11, lines 38-67 fig. 7);

means for indicating a delivery time for delivery of the message to a communication medium of the recipient, (figs. 3A, 3B; col. 7, lines 51-64);

means for keeping track of a clock time, (figs. 3A, 3B; col. 7, lines 51-64); and

means for sending the message from the stand-alone communication device to the communication medium of the recipient when the time reaches the delivery time, (col. 7, lines 51-64).

***Claim Rejections - 35 USC § 103***

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5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 12,23,34,45 and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Loucks in view of Langsenkamp US Patent 6,556,664.

**Regarding claims 12,23,34,45,57**, Loucks, as applied to claims 1,13,24,35 and 47, does not specifically teach wherein the message is retractable by canceling delivery of the message before the delivery time.

In the same field of endeavor, Langsenkamp teaches of a method and system for sending recorded to a communication media of a recipient at a selected time and wherein the recorded message is retractable by canceling delivery of the message before the delivery time, (col. 14, line 64-col. 15, line 20).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Loucks by allowing the user to cancel delivery of the message so



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that when the user sees that there is no longer a need to have the message sent they can prevent the message from being sent.

***Conclusion***

8. Any response to this action should be mailed to:

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

or faxed to:

(571) 273-8300, (for formal communications intended for entry)

Or:

(571) 273-7537, (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to:

Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ovidio Escalante whose telephone number is 571-272-7537. The examiner can normally be reached on M-Th from 6:30AM to 4:00PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan S Tsang can be reached on 571-272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

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may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**OVIDIO ESCALANTE**  
**PATENT EXAMINER**

Ovidio Escalante  
Primary Patent Examiner  
Group 2645  
November 18, 2005

O.E./oe

A handwritten signature in cursive script that reads "Ovidio Escalante".